



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
We make Indiana a cleaner, healthier place to live.

Mitchell E. Daniels, Jr.
Governor

April 13, 2007

100 North Senate Avenue
Mail Code 60-02
Indianapolis, Indiana 46204-2251
(317) 232-8603
(800) 451-6027
www.idem.in.gov

Thomas W. Easterly
Commissioner

VIA CERTIFIED MAIL 7000 0600 0027 2038 4678

Scott L. Parkinson, President and Registered Agent
Parkinson Property, Inc. d/b/a Delta Queen
5809 North Old SR 3
Muncie, Indiana 47303

Re: Adoption of Agreed Order
Commissioner, Indiana Department of
Environmental Management

v.

Parkinson Property, Inc. d/b/a Delta Queen
PWSID No. IN2180810
Case No. 2007-16618-W

Dear Mr. Parkinson:

This is to inform you that the Agreed Order in the above-referenced case has been approved and adopted by the Indiana Department of Environmental Management. A copy of the Agreed Order is enclosed.

You are no doubt familiar with the terms of compliance contained in the Agreed Order. The time frames for compliance are effective upon your receipt of this correspondence. Please note that the civil penalty is due within thirty (30) days after the effective date of the Agreed Order. Payment should be made payable to the Environmental Management Special Fund and sent to Cashier - Mail Code 50-10C, IDEM, 100 N. Senate Avenue, Indianapolis, Indiana 46204-2251. Please include the Case Number on the front of the check. If you have any questions, please contact Jennifer Donahue at 317/233-5974.

Sincerely,

Lori Kyle Endris
Chief
Office of Enforcement

Enclosure

cc: Delaware County Health Department (w/enclosure)
<http://www.state.in.us/idem> (enclosure only)



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STATE OF INDIANA) SS: _ BEFORE THE INDIANA DEPARTMENT OF
) ENVIRONMENTAL MANAGEMENT
COUNTY OF MARION)
)
COMMISSIONER OF THE DEPARTMENT)
OF ENVIRONMENTAL MANAGEMENT)
)
)
Complainant,)
)
v.) Case No. 2007-16618-W
)
PARKINSON PROPERTY INC., D/B/A)
DELTA QUEEN)
)
Respondent.)

AGREED ORDER

Complainant and Respondent desire to settle and compromise this action without hearing or adjudication of any issue of fact or law, and consent to the entry of the following Findings of Fact and Order.

I. FINDINGS OF FACT

1. Complainant is the Commissioner (“Complainant”) of the Indiana Department of Environmental Management (“IDEM”), a department of the State of Indiana created by Indiana Code (“IC”) 13-13-1-1.
2. Respondent is the Parkinson Property Inc., d/b/a Delta Queen (“Respondent”), which owns and operates a transient noncommunity public water supply (“PWS”) system with PWSID No. IN2180810, serving 200 persons, located at 8109 North State Road 3, in Muncie, Delaware County, Indiana (“Site”).
3. IDEM has jurisdiction over the parties and the subject matter of this action.

4. Pursuant to IC 13-30-3-3, IDEM issued a Notice of Violation via Certified Mail to:
Scott L. Parkinson, President and Registered Agent
Parkinson Property, Inc. d/b/a Delta Queen
5809 North Old SR 3
Muncie, Indiana 47303.
5. During an investigation conducted by a representative of IDEM, the following violations were found:
 - a. Pursuant to 327 Indiana Administrative Code ("IAC") 8-2-8(c), a noncommunity PWS system which serves no more than 1,000 persons must collect a least one (1) routine total coliform sample each calendar quarter.

IDEM records indicate that Respondent failed to collect at least one routine total coliform sample from its PWS system during the third and fourth quarters of 2005 and the second and fourth quarters of 2006; each in violation of 327 IAC 8-2-8(c).
 - b. Pursuant to 327 IAC 8-2.1-7, the owner or operator of a PWS system which fails to perform monitoring required pursuant to 327 IAC 8-2-8(c) is required to notify persons served by the PWS system, in the manner provided for in these rules, of such failure.

IDEM records indicate that Respondent failed to notify persons served by its PWS system of the failure to perform monitoring required pursuant to 327 IAC 8-2-8(c) during the third and fourth quarters of 2005 and the second and fourth quarters of 2006; each in violation of 327 IAC 8-2.1-7.
6. In recognition of the settlement reached, Respondent waives any right to administrative and judicial review of this Agreed Order.

II. ORDER

1. This Agreed Order shall be effective ("Effective Date") when it is approved by Complainant or Complainant's delegate, and has been received by Respondent. This Agreed Order shall have no force or effect until the Effective Date.
2. Respondent shall comply with all applicable provisions of the Indiana Administrative Code ("IAC"), including but not limited to, 327 IAC 8-2-8(c) and 327 IAC 8-2.1-7.
3. Beginning within thirty (30) days of the Effective Date of this Order, the Respondent shall, for the purposes of this Order, monitor at least one (1) routine total coliform sample in its PWS system for four (4) consecutive quarters, pursuant to 327 IAC 8-2-8(c).

4. Within the shorter of either ten (10) days after the Respondent receives any total coliform monitoring results or ten (10) days after the end of the applicable total coliform monitoring period, the Respondent shall submit said monitoring results for its PWS system to the Drinking Water Branch ("DWB") of IDEM, pursuant to 327 IAC 8-2-13(a).
5. Within thirty (30) days of the Effective Date of this Order, the Respondent shall provide public notice pursuant to 327 IAC 8-2.1-7, for the past total coliform monitoring violations listed in Section 1, Paragraph 5.b of the Findings of Fact, by following these steps:
 - (a) Complete attached public notice and certification form for public notice.
 - (b) Post public notice where the public has ready access for viewing, and for as long as the violation persists, but in no case less than seven (7) days, even if the violation is resolved.
6. Within ten (10) days of issuing the public notification required in Paragraph 5 of this Order; the Respondent shall send to the DWB of IDEM and the Office of Enforcement ("OE") of IDEM a signed certification form for public notice and a representative copy of the public notice, pursuant to 327 IAC 8-2-13(d).
7. All submittals required by this Agreed Order to be submitted to the DWB of IDEM, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

OWQ Drinking Water Branch – Mail Code 66-34
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204-2251
8. All submittals required by this Agreed Order to be submitted to the OE of IDEM, unless Respondent is notified otherwise in writing by IDEM, shall be sent to:

Jennifer Donahue, Enforcement Case Manager
Office of Enforcement – Mail Code 60-02
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204-2251
9. Respondent is assessed a civil penalty of Three Hundred Dollars (\$300). Said penalty amount shall be due and payable to the Environmental Management Special Fund within thirty (30) days of the Effective Date. In the event that the civil penalty is not paid within thirty (30) days of the Effective Date, Respondent shall pay interest on the unpaid

balance at the rate established by IC 24-4.6-1-101. The interest shall continue to accrue until the civil penalty is paid in full.

10. In the event the terms and conditions of the following paragraphs are violated, Complainant may assess and Respondent shall pay a stipulated penalty in the following amount:

Paragraph	Violation	Stipulated Penalty
3	Failure to monitor total coliform for four consecutive quarters beginning within 30 days after the Effective Date.	\$500 per missed sample.
4	Failure to submit total coliform samples results to IDEM within the shorter of 10 days after receiving the total coliform monitoring results, or 10 days after the end of the applicable total coliform monitoring period.	\$100 per week, or part thereof, past the 10-day deadline.
5	Failure to provide public notice for the monitoring violations listed in Paragraph 5.b of the Findings of Fact.	\$250 per week, or part thereof, past the 30-day deadline.
6	Failure to send to IDEM within 10 days a signed certification form for public notice and a representative copy of the public notice.	\$100 per week, or part thereof, past the 10-day deadline.

11. Stipulated penalties shall be due and payable within thirty (30) days after Respondent receives written notice that Complainant has determined a stipulated penalty is due. Assessment and payment of stipulated penalties shall not preclude Complainant from seeking any additional relief against Respondent for violation of this Agreed Order. In lieu of any of the stipulated penalties set out above, Complainant may seek any other remedies or sanctions available by virtue of Respondent's violation of this Agreed Order or Indiana law, including, but not limited to, civil penalties pursuant to IC 13-30-4.
12. Civil and stipulated penalties are payable by check to the "Environmental Management Special Fund." Checks shall include the Case Number of this action and shall be mailed to:
- Indiana Department of Environmental Management
Cashier – Mail Code 50-10C
100 North Senate Avenue
Indianapolis, IN 46204-2251
13. This Agreed Order shall apply to and be binding upon Respondent and its successors and assigns. Respondent's signatories to this Agreed Order certify that he is fully authorized

to execute this Agreed Order and legally bind the party he represents. No change in ownership, corporate, or partnership status of Respondent shall in any way alter its status or responsibilities under this Agreed Order.

14. In the event that any terms of this Agreed Order are found to be invalid, the remaining terms shall remain in full force and effect and shall be construed and enforced as if this Agreed Order did not contain the invalid terms.
15. The Respondent shall provide a copy of this Agreed Order, if in force, to any subsequent owners or successors before ownership rights are transferred. Respondent shall ensure that all contractors, firms and other persons performing work under this Agreed Order comply with the terms of this Agreed Order.
16. This Agreed Order is not and shall not be interpreted to be a permit or a modification of an existing permit. This Agreed Order, and IDEM's review or approval of any submittal made by Respondent pursuant to this Agreed Order, shall not in any way relieve Respondent of its obligation to comply with the requirements of its applicable permit or any applicable Federal or State law or regulation.
17. Complainant does not, by its approval of this Agreed Order, warrant or aver in any manner that Respondent's compliance with any aspect of this Agreed Order will result in compliance with the provisions of any permit, order, or any applicable Federal or State law or regulation. Additionally, IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of Respondent's efforts to comply with this Agreed Order.
18. Nothing in this Agreed Order shall prevent or limit IDEM's rights to obtain penalties or injunctive relief under any applicable Federal or State law or regulation, except that IDEM may not, and hereby waives its right to, seek additional civil penalties for the same violations specified in the NOV.
19. Nothing in this Agreed Order shall prevent IDEM [or anyone acting on its behalf] from communicating with the EPA or any other agency or entity about any matters relating to this enforcement action. IDEM or anyone acting on its behalf shall not be held liable for any costs or penalties Respondent may incur as a result of such communications with the EPA or any other agency or entity.
20. This Agreed Order shall remain in effect until the Respondent has complied with the terms and conditions of Paragraphs 3 through 12 of this Agreed Order and until IDEM issues a Resolution of Case letter to the Respondent.

TECHNICAL RECOMMENDATION:

Department of Environmental Management

By: Mark W. Stanifer
Mark W. Stanifer
Section Chief, Water Section
Office of Enforcement

Date: 3-23-07

RESPONDENT:

Parkinson Property, Inc. d/b/a Delta Queen

By: [Signature]
Printed: Scott Parkinson

Title: owner

Date: 3.31.07

COUNSEL FOR COMPLAINANT:

For the Department of Environmental
Management

By: [Signature]
Deputy Attorney General

Date: 3/26/07

COUNSEL FOR RESPONDENT:

By: _____

Date: _____

APPROVED AND ADOPTED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT THIS 11th DAY OF April, 2007.

[Signature]
Robert B. Keene
Assistant Commissioner
Office of Legal Counsel and Enforcement